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PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE CODE OF CRIMINAL PROCEDURE (GUJARAT AMENDMENT) BILL, 2021.

GUJARAT BILL NO. 18 OF 2021.

A BILL

*further to amend the Code of Criminal Procedure, 1973 in its application
to the State of Gujarat.*

It is hereby enacted in the Seventy-second Year of the Republic of India as follows:-

1. (1) This Act may be called the Code of Criminal Procedure (Gujarat Amendment) Act, 2021.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

**Amendment of
section 195 of
2 of 1974.**

2. In the Code of Criminal Procedure, 1973, in its application to the State of Gujarat, in section 195, in sub-section (1), in clause (a), for sub-clause (i), the following sub-clause shall be substituted, namely:-

2 of 1974.

“(i) of any offence punishable under sections 172, 173, 174 and 175 to 187 (both inclusive) of the Indian Penal Code, 1860, or”.

45 of 1860.

STATEMENT OF OBJECTS AND REASONS

The Government of Gujarat, Commissioners of Police and District Magistrates are empowered to issue prohibitory orders under section 144 of the Criminal Procedure Code, 1973 (2 of 1974) directing any person to abstain from certain act or to take certain order to prevent obstruction, annoyance or injury to any person or danger to human life, health or safety or a disturbance of public tranquility or a riot or an affray to maintain public order on various occasions. The police officers deployed for the enforcement of the above restrictions come across incidents of violation and need to take appropriate legal action against the violators under section 188 of the Indian Penal Code, 1860. However, section 195 of the Criminal Procedure Code, 1973 makes it mandatory for the public servant issuing such orders to be the complainant against the violators thereby creating an impediment for taking cognizance of violations by police officers.

2. Section. 174-A was inserted in Indian Penal Code, 1860 by the Criminal Procedure Code (Amendment) Act, 2005 (25 of 2005) and non-appearance in response to a proclamation under section 82 of the Criminal Procedure Code, 1973 (Act 2 of 1974) was made punishable. The said amendment also inserted sub-section (4) and (5) in section 82 of the Criminal Procedure Code, 1973 (Act 2 of 1974). The offence under section 174-A is cognizable. However, section 195 (1) (a) (iii) of the Criminal Procedure Code, 1973 prohibits the jurisdictional courts from taking cognizance of the offences except on the complaint in writing of the public servant concerned.

3. The proposed amendment of provisions section 195 of the Criminal Procedure Code, 1973 is necessary to facilitate registration of criminal cases based on the information received from police officers regarding commission of cognizable offences under section 174-A and section 188 of Indian Penal Code, 1860 (45 of 1860).

This Bill seeks to amend the said Code to achieve the aforesaid object.

PRADEEPSINH JADEJA,

MEMORENDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative power in the following respects:-

Clause 1.- Sub-clause (2) of this clause empowers the State Government, by notification in the *Official Gazette*, to appoint the date on which the provisions of the Act shall come into force.

The delegation of powers as aforesaid is necessary and is in normal character.

Dated the 26th March, 2021.

PRADEEPSINH JADEJA.

By order and in the name of the Government of Gujarat,

Gandhinagar.
Dated the 26th March, 2021.

K. M. LALA,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.
